

§ 14.560

(b) *Habeas corpus writs.* (1) If a Director of a Department of Veterans Affairs hospital concerned advises that, according to current medical opinion, hospitalization is necessary for the veteran's safety or the safety of others, the Regional Counsel will vigorously oppose the writ at the trial court level. If the writ is granted, no further action will be taken unless so instructed by the General Counsel.

(2) If the medical opinion is that hospitalization is not required for the veteran's safety or the safety of others but continued treatment is clearly indicated in the veteran's interest, the Regional Counsel will assure that the court issuing the writ is so informed and will abide by the court's decision.

(3) If the medical opinion is that there is no danger of self injury to the veteran or others and the need for continued treatment is not clearly demonstrated, the Regional Counsel will advise the Director of the hospital concerned that the veteran should be released and will notify the veteran's attorney of the planned discharge. These cases will be handled informally to the extent practicable.

(4) Involuntary confinement of mentally ill patients in Department of Veterans Affairs installations is predicated upon the law of the State in which the installation is located. In the event the writ is filed in Federal Court, the Regional Counsel will cooperate with the U.S. Attorney to the end that the case is removed to the appropriate State court.

[42 FR 41411, Aug. 17, 1977, as amended at 61 FR 7216, Feb. 27, 1996]

PROSECUTION

§ 14.560 Procedure where violation of penal statutes is involved including those offenses coming within the purview of the Assimilative Crime Act (18 U.S.C. 13).

The Department of Justice, or the U.S. Attorneys, are charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence in any case is sufficient to warrant prosecution is a matter solely for their determination. If the Department of Justice or U.S. Attorney de-

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cides to initiate action, the Regional Counsel will cooperate as may be requested. The Regional Counsel will promptly bring to the attention of the General Counsel any case wherein he or she is of the opinion that criminal or civil action should be initiated notwithstanding a decision by the U.S. Attorney not to bring such action; any case where action has been inordinately delayed; and any case which would cause significant publicity or notoriety.

(Authority: 38 U.S.C. 501)

[50 FR 24767, June 13, 1985, as amended at 68 FR 17551, Apr. 10, 2003]

§ 14.561 Administrative action prior to submission.

Before a submission is made to the U.S. Attorney in cases involving personnel or claims, the General Counsel, if the file is in Central Office, or the Regional Counsel at the regional office, hospital or center, if the file is in the regional office or other field facility, will first ascertain that necessary administrative or adjudicatory (forfeiture (see Pub. L. 86-222; 73 Stat. 452), etc.), action has been taken; except that in urgent cases such as breaches of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the U.S. Attorney will be made immediately.

[42 FR 41413, Aug. 17, 1977]

§ 14.562 Collections or adjustments.

When it is determined that a submission is to be made to the U.S. Attorney, no demand for payment or adjustment will be made without the advice of the U.S. Attorney. However, if, before or after submission, the potential defendant or other person tenders payment of the liability to the United States, payment will be accepted if the U.S. Attorney has no objection. If the U.S. Attorney determines that prosecution is not indicated, or when prosecution has ended, the file will be returned to the appropriate office with a report as to the action taken.

[42 FR 41413, Aug. 17, 1977]

Department of Veterans Affairs

§ 14.600

FEDERAL TORT CLAIMS

§ 14.600 Federal Tort Claims Act—general.

(a) *Federal Tort Claims Act—overview.* The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) *Applicable regulations.* The regulations issued by the Department of Justice at 28 CFR part 14 are applicable to claims asserted under the Federal Tort Claims Act, including such claims that are filed with VA. The regulations in §§ 14.600 through 14.605 of this part supplement the regulations at 28 CFR part 14.

(c) *Delegations of authority concerning claims.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority to consider, ascertain, adjust, determine, compromise, and settle claims asserted under the Federal Tort Claims Act (including the authority to execute an appropriate voucher and other necessary instruments in connection therewith) is delegated as follows:

(1) To the Under Secretary for Health, the Deputy Under Secretary for Health, Veterans Integrated Service Network (VISN) Directors, and VA Medical Facility Directors; with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

(3) To the Regional Counsels and Deputy Assistant General Counsel

(Professional Staff Group I) with respect to any claim; provided that:

(i) Any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I); and

(ii) Any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I) and with the prior written approval of the Attorney General or his or her designee.

(d) *Delegations of authority to reconsider final denial of a claim.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority under 28 CFR 14.9 to reconsider final denials of claims under the Federal Tort Claims Act is delegated as follows:

(1) To the Regional Counsel with jurisdiction over the geographic area where the occurrence complained of arose, with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

NOTE (1) TO PARAGRAPH (c)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (2) TO PARAGRAPH (c)(3)(i): For any award, compromise, or settlement under paragraph (c)(3)(i) of this section a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (3) TO PARAGRAPH (d)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for